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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,742	07/16/2003	Joschph L. Sullivan	1023-130US01	8969
53049	7590	08/17/2007	EXAMINER	
MARY Y. REDMAN			MULLEN, KRISTEN DROESCH	
MEDTRONIC, INC.			ART UNIT	PAPER NUMBER
710 MEDTRONIC PARKWAY NE M.S. LC340			3766	
MINNEAPOLIS, MN 55432-5604				
MAIL DATE		DELIVERY MODE		
08/17/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/620,742	SULLIVAN ET AL.
	Examiner Kristen Drosch Mullen	Art Unit 3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 August 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4,7,17,20 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 4 and 7 is/are allowed.
- 6) Claim(s) 17,20 and 42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 7/16/03 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. The indicated allowability of claim 17 is withdrawn in view of the newly reconsidered reference to Battaglia and newly discovered reference to Browne. Rejections based on the newly cited reference(s) follow.

Claims 4 and 7 are allowed.

Claim 42 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Claim Objections***

2. Claim 20 is objected to because of the following informalities: “the electrotherapy” lacks antecedent basis in the claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the phrase “and at least one selected from the group consisting of” it is unclear what is meant by the word “one” in this context. The examiner suggests rewriting the claim as follows:

A computer-readable medium comprising instructions for causing a programmable processor to:  
display a diagram representing at least a portion of a human body;  
receive a selection of a part of the displayed human body;  
and present first aid information as a function of the selection; and  
the instructions further cause the programmable processor to execute one step selected from the group consisting of: summon emergency medical personnel as a function of the

selection, deliver a therapy to a patient as a function of the selection, mad generate an alarm as a function of the selection.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Battaglia (5,088,037).

Regarding claim 17, Battaglia shows a method including presenting a menu of patient conditions (43-47, 18-22), receive a selection from the menu, and present first aid information as a function of the selection and delivering a *therapy* as a function of the selection (issuing of instructions to actuate 23 and/or 24 and the corresponding instructions that are delivered once 23 and/or 24 have been actuated) (Figs. 2-3; Col. 3, line 11-Col. 4, line 53).

7. Claims 17 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Browne et al. (2004/0064342).

Regarding claims 17 and 20, Battaglia shows a method including presenting a menu of patient conditions (Fig. 8, Breathing (136) or Not Breathing (138); Fig. 9, Circulation (146) or No Circulation (148), receive a selection from the menu, and present first aid information as a function of the selection and delivering a defibrillation electrotherapy or therapy (CPR) as a

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function of the selection (No Breathing (136) selected and No Circulation (138) (Figs. 8-10; paras. [0085]-[0089]).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Droesch Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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